of authority is stated in *Railroad Co.* v. *Burr,* 82 Oh. St. 133, in these words; "While it is true that courts of last resort have frequently, though not uniformly held the rule to be that the prejudice, if any, may be eliminated or cured by the prompt withdrawal of the objectionable statements made by counsel, accompanied by an instruction from the court to the jury to disregard such statements, yet this rule is recognized and applied by the courts in those cases only where it has been made to appear by the record from a consideration of the character of the statements made, that their prejudicial effect has probably been averted by such withdrawal and instruction." *German American Insurance Co.* v. *Harper,* 70 Ark. 305; *Murphy's Executor* v. *Hoagland,* 32 Ky. L. Rep. 839; *Florence Cotton Co.* v. *Field,* 104 Ala. 471; *Sullivan* v. *Railroad Co.,* 119 Ia. 464; *Greenfield* v. *Kennett,* 69 N. H. 419; *Dillingham* v. *Scales,* 78 Tex. 205; *Wagoner* v. *Hazle Township,* 215 Pa. St. 219. As is said in *Railroad Co.* v. *Pritschau,* 69 Oh. St. 447, "It is due to differences in the character of the misconduct rather than to differences of opinion in reviewing courts that it has in some cases been held that the effect of misconduct may be eliminated by instructions, and in others that it cannot be." Cases in which a new trial has been denied but which are distinguishable on this ground are the following: *Railroad Co.* v. *Johnson,* 90 Ga. 500; *Railroad Co.* v. *Johnson,* 116 Ill. 206; *Winter* v. *Sass,* 19 Kans. 556; *Burr* v. *Post,* 56 Nebr. 698; *Kingsley* v. *Finch,* 105 N. Y. S. 968; *Ruddy* v. *Ruddy,* 5 Pa. Co. Ct. 544; *Brennan* v. *Seattle,* Wash. 90 Pac. 434; *People* v. *Lee Ah Yute,* 60 Cal. 95; *Railroad Co.* v. *Moynahan,* 8 Colo. 56; *Hunton* v. *Cream City Co.,* 65 Wis. 323.

PRINCIPAL AND AGENT—LIABILITY OF PRINCIPAL IN EXEMPLARY DAMAGES FOR ACTS OF AGENT.—Plaintiff, a passenger, was wrongfully ejected from a train of defendant company by a train agent, who humiliated and insulted him. Due to the exposure following the ejection, the plaintiff became sick and died after this suit was brought. *Held,* in sustaining a verdict for plaintiff's administratrix for $11,115, that a principal is liable for exemplary damages for the wrongful, wanton, and oppressive acts of his agents when acting within the scope of their employment, although the particular acts were not authorized or ratified. *Forrester* v. *Southern Pacific Co.,* (Nev. 1913.) 134 Pac. 753.

It is well settled that a principal or master may be liable to exemplary damages for the acts of his agent or servant in proper cases, but irreconcilable conflict exists in determining the essential ingredients of a proper case. *R. R. Co.* v. *Hurst,* 36 Miss. 660; *Hopkins* v. *At. & St. Lawrence R. R.* 36 N. H. 9; *R. R. Co.* v. *Blocher,* 27 Md. 277. The better rule seems to be that a principal will not be held liable for exemplary damages unless he has previously authorized or subsequently ratified the tortious act of the agent, or was grossly negligent in selecting the offending agent. *The Amiable Nancy,* 3Wheat. 546; *Burns* v. *Campbell,* 71 Ala. 271; *Grund* v. *Van Vleck,* 69 Ill. 478; *Cleghorn* v. *N. Y. etc. R. R. Co.* 56 N. Y. 44; *Hill* v. *New Orleans etc. R. R. Co.,* 11 La. Ann. 292; *Mace* v. *Reed,* 89 Wis. 440; *Hagan* v. *Providence & Worcester R. R. Co.* 3 R. I. 88; *Robertson* v. *Wylde,* 2 M. & Rob. 101. The

reason for the rule as stated is that since exemplary damages are not given as compensation to the party injured but by way of punishment to the offender, and warning to others, they should be awarded only in case of participation, authorization, or ratification of the wrongful act. Many authorities, however, take the view, as pronounced in the principal case, that the principal is liable in exemplary damages for any act of the agent done within the course of or in connection with his duties or employment, regardless of the question of authorization or ratification of the principal. *Goddard* v. *Grand Trunk Ry.* 57 Me. 202; *Southern Express Co.* v. *Brown,* 67 Miss. 260; *Atl. etc. R. Co.* v. *Dunn,* 19 Oh. St. 162; *Malloy* v. *Bennett,* 15 Fed. 371; *Hopkins* v. *At. & St. Lawrence R. R.* supra; *R. R. Co.* v. *Hurst,* supra; *R. R. Co.* v. *Blocher,* supra. It is significant that in most of the cases, in which the latter doctrine has been invoked, the defendant was a public service company,and,as such,owed a duty to the public. Judge WALTON, in the *Goddard* case, supra, the facts being practically the same as in the principal case, remarked that to overturn a verdict for exemplary damages against a railroad company would tend to encourage indifference to other travelers, indifference to the evil influence which such an example would have upon the servants of other lines of public travel, and would be most unfortunate and detrimental to the public interests. Such reasoning would incline to justify the rule on the broad ground of public policy.

PRINCIPAL AND SURETY—EXTENSION OF TIME—EFFECT OF SURETY'S INTEREST IN THE TRANSACTION.—The defendants, who were principal stockholders and also directors in a corporation, signed a note with the corporation to raise money for its benefit, intending to be bound only as sureties. They received no other benefit in the transaction. The corporation was granted a valid extension of time on the note without their knowledge. *Held*: The defendants were not entitled to the same liberality of treatment as a volunteer surety and they were not released by the extension unless they were actually injured thereby. *First Nat. Bank of Olathe* v. *Livermore,* (Kans. 1913) 133 Pac. 734.

Generally a surety is released by a valid extension of time granted to his principal without his knowledge, though he is not injured. *Tuohy* v. *Woods,* 122 Cal. 655, 55 Pac. 683, but in *United States* v. *U. S. Fidelity & Guaranty Co.,* 172 Fed. 721 it was held that a paid surety company was not released by such an extension unless it was injured thereby. A stockholder is not released from the statutory liability for the debts of the corporation by a valid extension of time granted to the corporation. *Harger* v. *McCulloch,* 2 Denio 119; *Boice* v. *Hoge,* 51 Ohio St. 236, 46 Am. St. Rep. 569. Contra: *Henson* v. *Donkersley,* 37 Mich. 184. The liability of a joint surety on a note of a corporation of which he is a stockholder is not discharged by his death with his co-surety surviving. *Richardson* v. *Draper,* 87 N. Y. 337. The decision in the principal case is based upon the analogy of the above doctrines. It seems to be a new application of the rule that where a surety has a beneficial interest in the transaction his promise is an original undertaking. The most familiar application of this rule is in connection with the Statute of Frauds,